

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MULTICARE HEALTH SYSTEM, d/b/a GOOD
SAMARITAN HOSPITAL,

Plaintiff,

v.

KATHLEEN G. SEBELIUS, Secretary of the
United States Department of Health and Human
Services,

Defendant.

No. C12-05546-BHS

STIPULATION AND ORDER
AMENDING BRIEFING SCHEDULE

**Note on Motion Calendar for:
November 1, 2012**

NOW COME the Parties, Plaintiff Multicare Health System, d/b/a Good Samaritan Hospital (the "Hospital") and Defendant Kathleen G. Sebelius, Secretary of the United States Department of Health and Human Services (the "Secretary"), and request that the Court enter this Stipulation and Order, amending an earlier briefing schedule established by the Court on October 9, 2012, and in support thereof, respectfully represent as follows:

This case was filed on June 21, 2012, by the Hospital, seeking judicial review of a final decision of the Provider Reimbursement Review Board ("PRPB" or "Board"), a component of the United States Department of Health and Human Services ("HHS").

On October 8, 2012, this Court entered an Order setting aside its standard Pre-Trial Order Regarding Initial Disclosures, the Joint Status Report and Discovery Plan, based on the fact that this

STIPULATION AND
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BRIEFING SCHEDULE – 1
(C12-05546-BHS)

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1 case constitutes “an action for review on an administrative record” within the meaning of Fed. R. Civ.
2 P. 26(a)(1)(E)(i), and is therefore exempt from the requirements of Fed. R. Civ. P. 26(f). Instead, upon
3 the stipulation of the parties, the Court entered a Stipulated Scheduling Order, establishing a briefing
4 schedule for the parties to file cross-motions for summary judgment pursuant to Fed. R. Civ. P. 56.
5 Under the provisions of that Stipulated Scheduling Order, the first motion would be due November 2,
6 2012, and the briefing would be completed as of January 4, 2013.

7 Since October 8, 2012, when the Stipulated Scheduling Order was entered, the parties have made
8 good progress in settlement negotiations. They are now cautiously optimistic that this case can be
9 resolved by agreement without the need for further briefing. Accordingly, the parties respectfully
10 request that the Court amend the Stipulated Scheduling Order to provide for an extension of
11 approximately 30 days of the various deadlines established in that Order. Amending the Stipulated
12 Scheduling Order is in the interests of justice because it will permit the parties to devote their full
13 attention to settlement discussions, and allow them to avoid the considerable cost otherwise associated
14 with filing cross-motions for summary judgment and briefing in support thereof.

15 Accordingly, through their counsel of record, the Hospital and the Secretary hereby respectfully
16 request that the Court enter as an ORDER the following STIPULATION establishing the following
17 schedule for the briefing and submission of cross-motions for summary judgment in this case:

18 1. The Secretary shall file and serve her Motion for Summary Judgment and supporting
19 memorandum on or before Friday, December 7, 2012.

20 2. The Hospital shall file its Opposition to Plaintiff’s Motion for Summary Judgment and a
21 Cross-Motion for Summary Judgment on or before Friday, January 4, 2013.

22 3. The Secretary shall file her Opposition to the Hospital’s Cross-Motion for Summary
23 Judgment, and her Reply to the Hospital’s Opposition to the Secretary’s Motion for Summary Judgment
24 no later than Friday, January 18, 2013.

25 4. The Hospital shall file its Reply to the Secretary’s Opposition no later than Friday, February
26 1, 2013.

27 5. Both Plaintiff’s Motion for Summary Judgment and Defendant’s Cross-Motion for
28 Summary Judgment shall be noted on the Court’s motion calendar for Friday, February 1, 2013.

SO STIPULATED.

DATED: November 1, 2012

Respectfully submitted,

JENNY A. DURKAN
United States Attorney
Western District of Washington

By: s / Peter A. Winn
PETER A. WINN
Assistant United States Attorney
Attorneys for Defendant


SO STIPULATED.

DATED: November 1, 2012

By: s / Teresa A. Sherman
TERESA A. SHERMAN
Sherman Law Office, PLLC
Attorney for Plaintiff

SO ORDERED.

DATED: November 5, 2012.


BENJAMIN H. SETTLE
United States District Court Judge